

5. The averments contained in this paragraph are directed at a party other than the PrimeCare Medical Defendants, and therefore, no response is required. If a response is required, said averment is denied.

6. Admitted.

7. Admitted.

8. The averments contained in this paragraph are directed at a party other than the PrimeCare Medical Defendants, and therefore, no response is required. If a response is required, said averment is denied.

9. Admitted in part; denied in part. It is admitted that Nurse Fran Kloss is an employee of PrimeCare Medical, Inc. and performed medical services at the Lawrence County Prison.

10. Admitted in part; denied in part. It is admitted that Nurse Roxanne Demonaco is an employee of PrimeCare Medical, Inc. and performed medical services at the Lawrence County Prison.

11. – 34. Denied. The averments contained in these paragraphs contain conclusions of law and fact to which no response is required. If a response is deemed required, the averments contained herein are denied.

COUNT I – PLAINTIFF v. ALL DEFENDANTS
SECTION 1983 VIOLATION OF EIGHTH AMENDMENT
PROHIBITION AGAINST CRUEL AND UNUSUAL PUNISHMENT

35. The responses to paragraphs 1 through 34 are incorporated as if set forth herein at length.

36. – 44. Denied. The averments contained in these paragraphs contain conclusions of law and fact to which no response is required. If a response is deemed required, the averments contained herein are denied.

**COUNT II – PLAINTIFF v. DR. DOE (Susen Rossino, M.D.),
NURSE FRAN AND NURSE ROXANNE - NEGLIGENCE**

45. The responses to paragraphs 1 through 44 are incorporated as if set forth herein at length.

46. Denied. The averments contained in this paragraph contain conclusions of law and fact to which no response is required. If a response is deemed required, the averments contained herein are denied. By way of further answer, at all times material hereto, Plaintiff received medical care which conformed to the applicable standard of care.

COUNT III – PLAINTIFF v. LAWRENCE COUNTY - NEGLIGENCE

47. The responses to paragraphs 1 through 46 are incorporated as if set forth herein at length.

48. The claims versus Lawrence County were dismissed by Order of Court dated December 16, 2015 (Doc. 36).

COUNT III – PLAINTIFF v. PRIMECARE MEDICAL, INC. - NEGLIGENCE

49. The responses to paragraphs 1 through 48 are incorporated as if set forth herein at length.

50. Denied. The averments contained in this paragraph contain conclusions of law and fact to which no response is required. If a response is deemed required, the averments contained herein are denied. By way of further answer, at all times material

hereto, Plaintiff received medical care which conformed to the applicable standard of care by appropriately trained medical providers.

WHEREFORE, Defendants PrimeCare Medical, Inc.; Roxanne Demonaco, LPN; and Fran Kloss, LPN respectfully request that Plaintiff's Complaint be dismissed with prejudice and that judgment be entered in their favor.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

2. At all times material hereto, the PrimeCare Medical Defendants provided medical treatment which conformed to the applicable standard of care.

3. Plaintiff is unable to demonstrate a deliberate indifference to a serious medical condition.

4. Plaintiff's claims and/or alleged losses, at most, demonstrate a difference of opinion as to medical treatment.

5. Plaintiff's claims and/or alleged losses may be limited and/or barred by the Prison Litigation Reform Act.

6. Plaintiff's claims and/or alleged losses are barred by the applicable statute of limitations.

7. The alleged negligence and/or deliberate indifference of the PrimeCare Medical Defendants did not cause Plaintiff to suffer any injury.

8. At no time were Plaintiff's constitutional rights violated.

9. At all times material hereto, the Answering Defendants are immune from suit.

10. PrimeCare Medical, Inc.'s policies and procedures conform to national accreditation standards.

11. Plaintiff may have been a non-compliant patient.

12. PrimeCare Medical, Inc. cannot be vicariously liable for the alleged unconstitutional acts of its employees

13. The healthcare providers who provided treatment to Plaintiff utilized their best professional judgment in evaluating and providing treatment.

14. Any alleged negligence on the part of the PrimeCare Medical Defendants, which negligence is expressly denied, was not the factual cause of any harm suffered by Plaintiff.

15. Plaintiff cannot demonstrate any deficiencies in PrimeCare Medical, Inc.'s policies and procedures for the provision of medical care at the Lawrence County Prison.

16. At all times material hereto, the practices of the PrimeCare Medical Defendants have been reasonable and appropriate and have insured the protection of all rights, privileges and immunity of the public.

17. At no time material hereto did the PrimeCare Medical Defendants act in bad faith or in a willful, wanton, outrageous, reckless and/or malicious manner.

18. Plaintiff did not suffer any injuries or damages as a result of any acts or omissions by the PrimeCare Medical Defendants.

19. Plaintiff assumed the risk of harm by his own conduct.

20. Merely negligent or careless conduct on the part of the PrimeCare Medical Defendants is insufficient to maintain a cause of action pursuant to 42 U.S.C. § 1983.

21. Plaintiff failed to exhaust his administrative remedies.

WHEREFORE, Defendants PrimeCare Medical, Inc.; Roxanne Demonaco, LPN; and Fran Kloss, LPN respectfully request that Plaintiff's Complaint be dismissed with prejudice and that judgment be entered in their favor.

Respectfully submitted,

JOHNSON, DUFFIE, STEWART & WEIDNER

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Date: December 23, 2015
749416

CERTIFICATE OF SERVICE

I hereby certify on the 23rd day of December, 2015, that the foregoing *Answer with Affirmative Defenses* was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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